IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO :14362 of 2005

Between:

M/s.Balaji Milk Foods Pvt Ltd., Challagundal, Narsaraopet, Guntur district.
Rep by its Director Sri.K.Narayana Rao.

..... PETITIONER

AND

1 Commissioner of Commercial Taxes, Govt of A.P, Hyderabad.
2 Dy.Commissioner (CT), Guntur-II Division, Guntur.
3 Commercial tax Officer, Narsaraopet, Guntur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order or direction more particularly one in the nature of writ of mandamus declaring the Circular CCT's Ref No.AI(I)/128/2005 dt.11-04-2005 as illegal, void and inoperative and set-aside the same and consequently interdict the Dy.Commissioner (CT) from proceeding further in pursuance of the Show Cause Notice Rv.No.3/05/-06/L1 dt.24-05-2005, for the Assessment Year 2002-03 and pass such other order or orders.

Counsel for the Petitioner:MR.S.CHAKRAPANI

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

The petitioner is aggrieved of a letter dated 11.4.2005 written by the Commissioner of Commercial Taxes to all the Deputy Commissioners which reads as under:

> "The attention of all the Deputy Commissioners(CT) in the State is invited to the subject cited. They are informed that purchase of milk from unregistered dealers and its utilization in the manufacture of by-products by the dairies is liable to tax under Section 6-A of the APGST Act in view of the decision of the Hon'ble Supreme Court of India in the case of M/s. Hotel Balaji Vs. State of Andhra Pradesh (88 STCP 98)."

Learned Senior Counsel appearing for the petitioner submits that if the impugned letter is taken to be a circular, then it would be binding on all Deputy Commissioners and Deputy Commissioners will not be able to exercise their quasi-judicial power according to their understanding.

Learned Government Pleader, however submits that the impugned letter is an internal communication and is not binding on the Deputy Commissioners who are supposed to decide the matters which come before them in accordance with law, as they perceive the law.

In view of this submission, no further orders are needed to be passed in this writ petition. The writ petition is accordingly disposed of. No costs.

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BILAL NAZKI, ACJ

DATE: 6th July, 2005

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G. CHANDRAIAH,J

Pnb

To

1 The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Hyderabad.
2 The Deputy Commissioner (CT), Guntur –II Division, Guntur.

3 The Commercial Tax Officer, Narsaraopet, Guntur.

4 Two C.Cs. to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

5 Two C.D. copies